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8 Attorney for Plaintiff
9 KEVIN JABBAR MICKENS
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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION
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17 KEVIN JABBAR MICKENS,
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19 Plaintiff,
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21 v.
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23 MARTIN J. O'MALLEY,
24 Commissioner of Social Security,
25
26 Defendant.

Case No. 2:24-cv-01116-JDP

27 STIPULATION FOR THE AWARD AND
28 PAYMENT OF ATTORNEY FEES AND
EQUAL ACCESS TO JUSTICE ACT;
~~PROPOSED~~ ORDER

18 IT IS HEREBY STIPULATED by and between the parties through their
19 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
20 attorney fees and expenses in the amount of \$6,900.00, under the Equal Access to
21 Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This
22 amount represents compensation for all legal services rendered on behalf of Plaintiff by
23 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),
24 1920.
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26 After the Court issues an order for EAJA fees to Plaintiff, the government will
27 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
28 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability

to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Plaintiff's counsel, Francesco Benavides, pursuant to the assignment executed by Plaintiff. Any payments may be made by electronic fund transfer (EFT) or by check.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Francesco Benavides, including the Law Offices of Francesco Benavides, may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Francesco Benavides to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: August 30, 2024

Law Offices of Francesco Benavides

By: /s/ Francesco Benavides
FRANCESCO P. BENAVIDES
Attorney for Plaintiff

1 Dated: August 30, 2024

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

5 By: Mary Tsai*
6 MARY TSAI
7 Special Assistant U.S. Attorney
8 Attorneys for Defendant
9 (*Permission to use electronic signature
obtained via email on August 30, 2024).

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1 **{PROPOSED} ORDER**

2 Based upon the parties' Stipulation for the Award and Payment of Equal Access
3 to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the
4 amount of \$6,900.00 as authorized by 28 U.S.C. § 2412, and no costs under 28 U.S.C.
5 § 1920, be awarded subject to the terms of the Stipulation.

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8 IT IS SO ORDERED.

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10 Dated: August 30, 2024


11 JEREMY D. PETERSON
12 UNITED STATES MAGISTRATE JUDGE

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